

VIRGINIA:

BEFORE THE BOARD OF OPTOMETRY

IN RE:

CHRISTOPHER A. MCGLONE, JR., O.D.

Complaint No.: 1998-00633 (55547)

ORDER

Pursuant to § 9-6.14:12 and § 54.1-110 of the Code of Virginia (1950), as amended (the "Code"), a formal administrative hearing was held before a quorum of the Board of Optometry (the "Board") on September 16, 1998, in Henrico County, Virginia, to receive and act upon the application for reinstatement of the license of Christopher A. McGlone, Jr., O.D., to practice optometry in the Commonwealth, which was mandatorily suspended by the Department of Health Professions on November 14, 1997, pursuant to §54.1-2409 of the Code, and to receive and act upon evidence that Dr. McGlone may have violated certain laws and regulations governing the practice of optometry in Virginia. The case was presented by Pamela L. Harris, Senior Legal Assistant for Administrative Proceedings Division. Howard M. Casway, Assistant Attorney General, was present as legal counsel for the Board. Dr. McGlone was present and was represented by Robert B. Rae, Esquire. The proceedings were recorded by a certified court reporter.

Upon consideration of the evidence presented, the Board adopted the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Christopher A. McGlone, Jr., O.D., previously held License No. 0601-000530 issued by the Virginia Board of Optometry.
2. By Order of the Department of Health Professions entered November 14, 1997, Dr. McGlone's license to practice optometry in the Commonwealth was mandatorily suspended, pursuant to § 54.1-2409 of the Code of Virginia, based upon his conviction by the United States District Court of the Eastern District of Virginia, of false statements, a felony in violation of United States Code, Title 18, Section 1001.

3. By his own admission, Dr. McGlone continued to practice optometry after receipt of an Order from the Department of Health Professions entered November 14, 1997, suspending his license to practice optometry in the Commonwealth of Virginia.

4. Dr. McGlone failed to notify his employers, namely, Traylor Optical Company ("Traylor"), a mercantile or commercial establishment, Virginia Beach, Virginia and the United States Army, Department of Optometry (the "Department"), Fort Monroe and Fort Eustis, Virginia, that his license had been suspended and continued to provide optometric services to patients.

5. While with Traylor, Dr. McGlone's optometric practice was located in a commercial or mercantile establishment.

6. On or about March 11, 1998, Dr. McGlone's privileges to practice optometry at the Department of Optometry, Fort Monroe and Fort Eustis, Newport News, Virginia, were revoked based upon a pattern of deception, in that: (1) he failed to notify the Department that his license to practice optometry had been suspended by the Board; and (2) he represented that he held licensure in another state and subsequently produced an Illinois certificate, which had expired in 1965, as proof of current licensure.

6. On his Application for Reinstatement notarized January 7, 1998, Dr. McGlone answered "None" to Question #7 requesting the names of "all states in which you are or have been licensed to practice optometry. . . ," when, in fact, he had been licensed in Illinois.

7. By letter dated September 15, 1998, Dr. McGlone's probation officer stated that Dr. McGlone is in compliance with the terms and conditions of his court ordered probation.

8. Dr. McGlone testified that he continued the practice of optometry after notification of his mandatory suspension due to income needs, an exercise of poor judgment, and embarrassment concerning the suspension of his license.

CONCLUSIONS OF LAW

Based upon Findings of Fact Nos. 2 through 7, the Board concludes that Christopher A. McGlone, Jr., O.D., has violated § 54.1-3204(1), § 54.1-3205(A) and (B) and § 54.1-3215(1), (2) and (16) of the Code of Virginia (1950), as amended. Further, pursuant to § 54.1-2409 of the Code Dr. McGlone's application for reinstatement is properly before the Board, and the Board may order the reinstatement of his license upon such terms and conditions as it deems appropriate by an affirmative vote of three-fourths of the members of the Board.

ORDER

WHEREFORE, the Virginia Board of Optometry, by affirmative vote of at least three-fourths of the members of the Board, effective upon entry of this Order, hereby ORDERS that the license of Christopher A. McGlone, Jr., O.D. to practice optometry in the Commonwealth of Virginia, be and hereby is REINSTATED on PROBATION, subject to the following terms and conditions:

1. The period of probation shall begin on the date that this Order is entered and shall continue INDEFINITELY. Dr. McGlone may petition the Board to terminate his probation after not less than two (2) years of employment as an optometrist.
2. All reports required by this Order shall be submitted in writing to the Board with the first report being submitted no later than 45 days following the date that the Order is entered. Subsequent reports must be submitted quarterly by the last day of the months of February, May, August, and November until the period of probation ends. Dr. McGlone is fully responsible for ensuring that all required reports are properly submitted and received by the Board in a timely manner.
3. Dr. McGlone shall practice optometry only in an employment setting approved by a

Committee of two (2) members of the Board.

4. Dr. McGlone shall provide written notification to his supervisor that his license is on probation and provide his supervisor with a copy of this Order in its entirety. Dr. McGlone shall have his supervisor sign, before a notary, that he/she has received notification. Within ten (10) days of notifying his supervisor of his probation, Dr. McGlone shall send the notarized notification to the Board.

5. Dr. McGlone shall be subject to at least two (2) unannounced recordkeeping audits per year during the period of probation. Dr. McGlone shall be solely responsible for the payment of the Two Hundred Dollar (\$200.00) audit fee to be paid to the Board within thirty (30) days of each audit. If said fee is not received within the stipulated deadline, an additional One Hundred Dollar (\$100.00) late fee shall be assessed weekly, up to a maximum of One Thousand Dollars (\$1000). Failure to pay the full fee plus the additional late fee within one hundred (100) days of each inspection shall constitute grounds for an administrative proceeding. In the event that any such audit reveals a possible violation of the laws or regulations pertaining to the practice of optometry in Virginia, or Chapter 32 of Title 54.1 of the Code of Virginia (1950), as amended, the Board specifically reserves the right to conduct further proceedings in this matter.

6. Dr. McGlone shall request his federal parole officer to provide the Board with quarterly reports as set forth in Term #2, describing his compliance with the conditions of his probation.

7. Dr. McGlone shall request his supervisor to provide the Board with quarterly reports as set forth in Term #2.

8. Dr. McGlone shall be assessed a monetary penalty of Three Thousand Dollars (\$3000), representing One Hundred Dollars (\$100) per patient seen by him during the period in

which his license had been mandatorily suspended by the Department of Health Professions and based upon the thirty (30) patient records identified in Commonwealth's Exhibit #1. Further, Dr. McGlone shall be assessed a monetary penalty of One Thousand Dollars (\$1000) for practicing in a mercantile and /or commercial establishment in violation of 54.1-3205(A) of the Code of Virginia (1950), as amended. The total Four Thousand Dollar (\$4000) monetary penalty shall be paid to the Board by certified check or money order within three (3) months from the date of entry of the Order. If said monetary penalty is mailed, it shall be sent by certified mail. If said monetary penalty is not received with the prescribed deadline, an additional One Hundred Dollar (\$100) late fee shall be assessed weekly, up to a maximum of \$1000. Failure to pay the full monetary penalty plus the additional assessment with one hundred (100) days of the date of entry of this Order shall constitute grounds for an administrative proceeding.

9. Dr. McGlone shall perform one hundred (100) hours of Board approved community service during the period of probation. Dr. McGlone shall provide advance, written notice of the location and nature of the service he plans to perform for Board review and approval. Quarterly reports verifying the hours of community service provided shall be submitted as stated in Term #2.

10. Dr. McGlone shall maintain a course of conduct commensurate with the requirements of Chapter 32, Title 54.1 of the Code of Virginia (1950), as amended, and the Regulations of the Board of Optometry.

Any violation of these terms of probation or of any law or regulation governing the practice of optometry in the Commonwealth of Virginia, shall constitute grounds for the suspension or revocation of Dr. McGlone's license and an administrative proceeding shall be convene to determine whether such license shall be suspended or revoked.


Pursuant to § 9-6.14:14 of the Code of Virginia (1950), as amended, the signed original of

C. A. McGlone, O.D.

this Order shall remain in the custody of the Department of Health Professions as public record and shall be made available for public inspection or copying on request.

As provided by Rule 2A:2 of the Supreme Court of Virginia, Christopher A. McGlone, Jr., O.D., has thirty (30) days from the service date in which to appeal this decision by filing a Notice of Appeal with Elizabeth A. Carter, Ph.D., Executive Director, Board of Optometry, 6606 West Broad Street, Fourth Floor, Richmond, Virginia 23230-1717. The service date shall be defined as the date Dr. McGlone actually received this decision or the date it was mailed to him, whichever occurred first. In the event this decision is served upon him by mail, three (3) days are added to that period.

FOR THE BOARD



Elizabeth A. Carter, Ph.D.
Executive Director

ENTERED: October 1, 1998

C. A. McGlone, O.D.

Certificate of Service

I hereby certify that a true copy of the foregoing Order was mailed to Christopher A. McGlone, O.D., 2916 Sunrise Avenue, Chesapeake, Virginia 23324 and his counsel, Robert B. Rae, Esquire, at Rae, Forbes & Hall, P.C., 2600 Barrett Street, Suite 100, Virginia Beach, Virginia 23452 on the 15th day of OCTOBER, 1998.



Elizabeth A. Carter, Ph.D.
Executive Director
Board of Optometry